

Remarks

The Office Action mailed February 7, 2006 and made final has been carefully reviewed. Applicants respectfully request reconsideration of the pending claims considering the following discussion.

Claims 1-33 and 39-42 are pending in this application and stand rejected.

In accordance with 37 C.F.R. 1.136(a), a two-month extension of time is submitted herewith to extend the due date of the response to the Office Action dated February 7, 2006, for the above-identified patent application from May 7, 2006, through and including July 7, 2006. In accordance with 37 C.F.R. 1.17(a)(3), authorization to charge a deposit account in the amount of \$450.00 to cover this extension of time request also is submitted herewith.

The Office Action rejects claims 1-33 and 39-42 under 35 U.S.C. § 103(a) as being unpatentable over Samra et al. (U.S. Patent No. 6,970,892), and further in view of Anderson et al. (U.S. Patent No. 6,078,892). The Office Action also rejects claims 5, 15, 24, 32, and 40 under 35 U.S.C. § 103(a) as being unpatentable over Samra et al. (U.S. Patent No. 6,970,892), and Anderson et al. (U.S. Patent No. 6,078,892) as applied to claims 1, 11, 21, 30, and 39, and further in view of Blume et al. (U.S. Patent No. 6,839,682). These rejections are respectfully traversed.

The rejections based upon Samra et al. (U.S. Patent No. 6,970,892) are improper. The American Inventors Protection Act of 1999 (AIPA) amended 35 U.S.C. § 103(c) to disqualify references used in a rejection under § 103(a) that only qualify as prior art under § 102(e), § 102(f) or § 102(g) against the claimed invention if that subject matter and the claimed invention “were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.” Consequently, subject matter that is applied in a rejection under 35 U.S.C. § 103(c) based upon prior art only available under 35 U.S.C. § 102(e) is disqualified as prior art against the claimed invention if that subject matter and the claimed invention “were, at the time the invention was made”, owned by the same person or subject to an

obligation of assignment to the same person. Applicants assert that the primary reference used as a basis for rejecting the claims, Samra et al. (U.S. Patent No. 6,970,892), does not qualify as prior art against this application because it is disqualified by 35 U.S.C. § 103(c).

The effective date of the AIPA is November 29, 1999. Samra et al. has a filing date of December 29, 1999, which is after November 29, 1999, so it is subject to the provisions of the AIPA. Samra et al. also appears to be applied as 102(e) prior art because the other sections of 35 U.S.C. § 102 clearly do not apply.

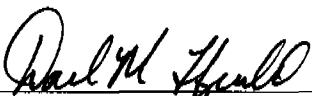
Additionally, this pending application and Samra et al. (U.S. Patent No. 6,970,892) were, at the time the invention was made, owned by, or subject to an obligation of assignment to, the same person.

For at least the reasons as set forth above, Applicants respectfully request that the 35 U.S.C. § 103(a) rejections of claims 1-33 and 39-42 be withdrawn.

In view of the foregoing remarks, all the claims now active in this application are believed to be in condition for allowance. Reconsideration and favorable action is respectfully solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in better condition for allowance, the Examiner is invited to contact Applicant's undersigned representative at the telephone number listed below.

Respectfully Submitted,


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